

Message Text

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12

ACTION EA-14

INFO OCT-01 ISO-00 EB-11 COME-00 TRSE-00 OMB-01 SS-20

NSC-10 NSCE-00 CIAE-00 INR-10 NSAE-00 RSC-01 SAJ-01

DRC-01 /070 W

----- 100759

R 150220Z JAN 74

FM AMCONSUL HONG KONG

TO SECSTATE WASHDC 9247

INFO USLO PEKING

AMEMBASSY TOKYO

C O N F I D E N T I A L HONG KONG 529

NOFORN

E.O. 11652: 11652: GDS

TAGS: BEXP CH

SUBJECT: CATERPILLAR NEGOTIATIONS WITH PRC ON SALE OF EQUIPMENT

1. CATERPILLAR (HK) REPRESENTATIVE, A.J. MILLER HAS REQUESTED CONGEN'S ASSISTANCE IN PREPARING FOR UPCOMING NEGOTIATIONS WITH MACHIMPEX ON SALE OF HEAVY CONSTRUCTION EQUIPMENT TO THE PRC. ACCORDING TO MILLER, TALKS MAY REACH CONTRACT STAGE ASSUMING CHINESE ACCEPT CATERPILLAR LATEST (HIGHER) PRICES AND LATER DELIVERY SCHEDULES. THE FIRM'S LAWYERS ARE, HOWEVER, TROUBLED BY SOME TERMS OF THE NORMAL PRC CONTRACT. SPECIFICALLY, CATERPILLAR OBJECTS TO CHINESE REFUSAL TO INCLUDE STRIKES UNDER FORCE MAJEURE CLAUSE.

2. MILLER HAS ASKED WHETHER STRIKES HAVE BEEN INCLUDED UNDER FORCE MAJEURE IN CONTRACTS SIGNED WITH KELLOGG, BOEING OR OTHER US FIRMS. IF THIS INFORMATION NOT ALREADY AVAILABLE TO DEPARTMENT, WE WOULD APPRECIATE YOU MAKING APPROPRIATE INQUIRIES TO ACQUIRE IT-- PERHAPS FROM NCUSCT AND/OR SUBJECT FIRMS. AS CATERPILLAR IS MEMBER OF NCUSCT, PERHAPS THEROUX OR SURREY
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MIGHT WISH TO COMMENT FURTHER ON THIS PROBLEM AREA.

3. CATERPILLAR WOULD ALSO LIKE TO INCLUDE THIRD PARTY
ARBITRATION CLAUSE, BUT MAY NOT LET THIS ISSUE HOLD UP
CONCLUSION OF SALE IF OTHER CONDITIONS SATISFACTORY.

4. CONGEN WOULD APPRECIATE REPLY AS SOON AS POSSIBLE AS
MILLER IS SCHEDULED TO BE IN PEKING BY JANUARY 28.
OSBORN

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NNN

Message Attributes

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